



State of Washington
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112
Toll Free 1-877-601-2828 • E-mail: pdcc@pdcc.wa.gov • Website: www.pdca.wa.gov

9:00 a.m.
July 29, 2003

MINUTES – SPECIAL MEETING

Evergreen Plaza Bldg. Room 206
711 Capitol Way South
Olympia, Washington

COMMISSION MEMBERS PRESENT

Susan Brady, Chair
Lois Clement, Vice Chair
Earl Tilly, Secretary
Francis Martin, Member
Michael Connelly, Member

STAFF PRESENT

Vicki Rippie, Executive Director
Susan Harris, Assistant Director
Michael Smith, Chief Technology Officer
Nancy Krier, Asst. Attorney General
Linda Dalton, Sr. Asst. Attorney General
Ruthann Bryant, Secretary

The special meeting of the Public Disclosure Commission was called to order by Commission Chair Susan Brady at 9:00 a.m. in the Evergreen Plaza Building, Room 206, Olympia, Washington.

Commissioner Comments

The Commission briefly discussed a change in meeting dates and tentatively set the next meeting for Wednesday, September 3.

Citizen Comments/Concerns

No citizen comments or concerns were expressed.

Minutes

Motion 04-002

Moved by Commissioner Clement, seconded by Commissioner Martin:

**The Commission adopts the minutes
of the regular meetings of May 27,**

**June 24, and the special meeting of
July 8, 2003, as written.**

The motion passed unanimously.

Personal Financial Affairs Reporting

New Modification Requests

*Linda Averill, candidate of Freedom
Socialist Party, for Seattle City
Council*

Mr. Stutzman reported that Ms. Averill requests a continuation of her modification request pending the outcome of an appeal of a similar request denied by the Seattle Ethics and Elections Commission.

*Wayne Schattenkerk, candidate
for School Board Member,
Issaquah School District*

Mr. Stutzman reported that Mr. Schattenkerk has withdrawn his request for a reporting modification.

*Cleveland Stockmeyer, candidate
for Board Member, Seattle
Monorail Authority*

Mr. Stutzman reported that Mr. Stockmeyer has withdrawn his request for a reporting modification.

*Mark Warner, candidate for School
Board Member, Issaquah School
District*

Mr. Stutzman reported that Mark Warner requests an exemption from reporting the business and governmental customers of Briazz, Inc., of which his spouse was an officer until October 2002.

Motion 04-003

Moved by Commissioner Tilly, seconded by
Commissioner Martin:

**The Commission grants the reporting
modification to Mark Warner as
requested.**

**The Commission finds that literal
application would cause a manifestly
unreasonable hardship on the applicant
and that a limited modification would not
frustrate the purposes of the act.**

The motion passed unanimously.

Renewals (no changes)

The "renewals with no changes" reporting
modification requests were considered en masse.

Motion 04-003

Moved by Commissioner Clement, seconded by Commissioner Tilly:

The Commission grants the reporting modifications requested by Joseph Delay, Richard A. Jones and Nancy Waldman.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Reconsideration of Reporting
Modifications Granted

*Bruce Allen, School Board Member
Highland School District 203*

Mr. Stutzman reported that Bruce Allen requests that the Commission reconsider its order of May 27, 2003, which requires that he report other governmental customers of Tree Top, Inc., a cooperative of which he is a director.

Motion 04-004

Moved by Commissioner Tilly, seconded by Commissioner Clement:

The Commission grants an expansion of previous modification to Bruce Allen to include other governmental customers. However he must report those customers of which he becomes aware.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

*Steven Hill, Regent, WA State
University*

Mr. Stutzman reported that Steven Hill requests that the Commission reconsider its order of May 27, 2003, which requires that he report governmental customers of Willamette Industries, including Washington State University, for the two-month period of which he was a director.

Motion 04-005

Moved by Commissioner Connelly, seconded by Commissioner Martin:

The Commission grants an expansion of previous modification to Steven Hill to include governmental customers except Washington State University.

The Commission finds that literal application would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.

The motion passed unanimously.

Staff Reports

Executive Director

Vicki Rippie briefly summarized the agency's Performance Report submitted to the Governor for 2003. She also noted that staff recently held a golf tournament and picnic and she thanked staff members who helped make it possible.

Assistant Director

Susan Harris reported that during filing week approximately 3500 declarations are expected. She also noted that a list of tracked races was developed from feedback gathered from media throughout the state and will be available on the website.

Chief Technology Officer

Michael Smith updated the Commission on the status of the ORCA project and reported that IT staff has started the process to find a co-location site.

Assistant Attorney General

Nancy Krier briefly summarized current litigation and noted upcoming court dates.

Sr. Assistant Attorney General

Linda Dalton noted that all cases forwarded for collection of outstanding penalties exceeding \$500 have been reduced to judgments in Thurston County Superior Court.

Enforcement Matter
Hearing

Marilou Rickert, Case #03-147

Commissioner Connelly noted that he would be presiding officer during the hearing and he summarized the enforcement hearing process.

Senior Assistant Attorney General Linda Dalton, representing PDC staff, introduced paralegal Kathy Isoz. Attorney Venkat Balasubramani, representing Dr. Rickert, introduced Attorney Aaron Caplan and Marilou Rickert.

Ms. Dalton summarized the case against Marilou Rickert for an alleged violation of RCW 42.17.530 by sponsoring with actual malice political advertising that contained false statements of material fact about Senator Tim Sheldon, a candidate for State Senator in the 35th Legislative District during the 2002 election. Specifically, Ms. Rickert stated that Senator Sheldon voted to close Mission Creek Youth Center, a facility for the developmentally disabled.

Political Finance Specialist Sally Parker testifying on behalf of staff, stated that during the course of her investigation she was able to obtain voting records and other documents showing that Senator Sheldon voted against ESSB 6387, the State Budget bill. That bill eliminated funding for Mission Creek Youth Camp. Ms. Parker testified that she was able to obtain the records from a variety of sources within a matter of minutes.

David Griffith, Program Administrator of the Department of Social and Health Services, testified on behalf of staff that Mission Creek was not a facility for the developmentally disabled, but

rather a juvenile detention center. Mr. Griffith testified that had Dr. Rickert called his office, she would have been told that fact. Mr. Griffith also testified that the Mission Creek residents are required to function at a high level because they are required to be competent enough to handle dangerous tools such as axes, shovels and chain saws to help fight forest fires.

Senator Sheldon testified on behalf of staff that he voted against ESSB 6387. He also testified that Dr. Rickert could have easily found his voting record by calling his office or Senate staff.

Attorney Venkat Balasubramani representing Dr. Rickert argued that the statements were a matter of opinion, not of fact. He added that Dr. Rickert honestly believed the statement to be true.

Dr. Rickert testified on behalf of herself that she relied on statements given to her by Lobbyist Dave Wood. She indicated that she was not aware of Mission Creek prior to Mr. Wood's conversation. She also stated that she had not researched the information given to her prior to publicizing it in her political advertisement. She acknowledged that after the election, at the request of Senator Sheldon, she wrote to newspapers retracting her statement that Mission Creek was a facility for the developmentally disabled.

Executive Session

The Commission went into executive session at 11:50 a.m. to discuss pending and potential litigation with legal counsel.

Public Session

The Commission returned to public session at 1:00 p.m.

Enforcement Matter (cont.)

Hearing (cont.)

Marilou Rickert, Case #03-147

Lobbyist Dave Wood testified on behalf of Dr. Rickert that he felt that Senator Sheldon did not use his influence to retain Mission Creek. Mr. Wood continued by saying that Senator Sheldon could have used his vote to bargain for additional

funding for the facility. Mr. Wood testified that Ms. Rickert misinterpreted his comment to her that Mission Creek was a facility for the developmentally disabled.

Commissioner Connelly stated that after deliberations the Commission found clear and concise evidence that there was a political advertisement that contained a false statement of material fact about a candidate for public office. He said that the record presented by staff clearly indicates that Senator Sheldon voted against the budget that closed the facility. Dr. Rickert did not provide evidence to show that Senator Sheldon voted to close the facility. The fact that Senator Sheldon did not take steps to prevent the closure would have been legitimate issues for the campaigns to discuss, but that was not what was printed in the advertisement. Commissioner Connelly also said that, while the evidence was a little less clear, the fact is that Dr. Rickert testified that she wrote a letter to newspapers at Senator Sheldon's request that stated the facility was not one for the developmentally disabled. While she argues that the statement may be incorrect, he does not make a distinction between incorrect and false.

Commissioner Connelly continued by saying that the matter appeared to be material, since it concerned a public facility in a small community. The fact that Dr. Rickert used the statement in her campaign literature supports the conclusion of its materiality.

In determining malice, Commissioner Connelly stated that the evidence provided at the hearing showed that Dr. Rickert acted with malice. She asked the Commission to enter into evidence a newspaper article that she testified she relied upon to make her decision to run against Senator Sheldon. The article stated that Senator Sheldon was the only Democrat in the legislature that voted against Mission Creek closure. An additional exhibit provided by Dr. Rickert stated that Senator

Sheldon told a group to which he was speaking that he voted against the state budget for a number of reasons, one being the closure of Mission Creek.

Commissioner Connelly stated that he believes Dr. Rickert had actual knowledge that the statements were false or acted in reckless disregard to the truth or falsity of the statements in question by failing to make even the most cursory check of the facts.

With the question posed to the Commission about what it would do to the political process if the Commission finds that a violation occurred, Commissioner Connelly stated that it was his opinion that it would raise the bar as to what is acceptable in politics and what is not. Part of their effort is to ensure that the voters in the State of Washington trust the process rather than assume the process is full of falsehoods.

Chair Susan Brady concurred with Commissioner Connelly's statements.

Motion 04-006

Moved by Commissioner Brady, seconded by Commissioner Clement:

The Commission finds clear and convincing evidence as required in statute, a single violation of RCW 42.17.530 in PDC Case #03-147, Marilou Rickert, and assesses a penalty of \$1,000.

The motion passed unanimously.

Vicki Rippie is authorized to sign the order on behalf of the Commission.

Adjournment

Commissioner Brady adjourned the meeting at 2:50 p.m. The next meeting is scheduled for Wednesday, September 3, 2003.

Approved by the Commission 9/3/03